

Notice of Allowability

Application No.

10/082,894

Examiner

Malgorzata A. Walicka

Applicant(s)

KLOEK ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 02/17/04.
2. ☒ The allowed claim(s) is/are 5,6,9,10,19 and 23-27.
3. ☒ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 02/26/02
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

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The Petition to Withdrawn Notice of Abandonment filed May 03, 2004 is acknowledged. The abandonment is withdrawn, because Applicants filed on February 17, 2004, the Amendment in Reply to the Action of August 12, 2003, and Petition for Three-Month Extension of Time. Amendments to the specification and claims have been entered. Claims 1-4, 7-8 and 11-18 are cancelled. Claims 5, 6, 9, 10 are amended. New claims 19-25 are added.

The numbering of newly added claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 24, 24, and 25 have been renumbered 24, 25, and 26.

Claims 5-6, 9-10, 19-26 are pending in the Application and are the subject of this Office Action.

DETAILED ACTION

1. Objections

1.1. Specification

The objection to the specification is withdrawn, because the specification has been amended.

1.2. Claims

Objection to claim 4 is moot, because the claim has been cancelled.

2. Rejections

2.1. 35 USC, section 112, second paragraph

Rejection of claim 9 under 35 U.S.C. 112, second paragraph, is withdrawn, because the claim has been amended.

2.2. 35 USC, section 112, first paragraph

2.1.1. Lack of written description

Rejection of claim 8 is moot because the claim has been cancelled.

Rejection of claims 5, 6 and 10 for lack of written description of function is withdrawn, because claim 5 has been amended to recite the function of SEQ ID NO: 2.

2.2.2. Scope of enablement

Rejection of claim 8 made in the previous Office Action is moot, because the claim has been canceled.

3. Examiner's amendment

The examiner's amendment relates to the claims renumbered as indicated above.

In claim 5 replace --80%-- with --95%--.

In claim 6 replace --85%-- with --98%--.

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Cancel claims 20, 21 and 22.

In claim 23 cancel "-22".

In claim 25 cancel "-22".

In claim 26 cancel "or claim 24".

Please add claim 27:

27. An isolated host cell comprising the vector of claim 24.

Authorization for this examiner's amendment was given in a telephonic interview with Applicants representative Anita Meiklejohn on May 18, 2004.

3. Allowance

Claims 5-6, 9-10, 19, and 23-27 are allowed for the reasons indicated in the previous Office Action, issued on August 12, 2003.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Malgorzata A. Walicka, Ph.D., whose telephone number

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is (571) 272-0944. The examiner can normally be reached Monday-Friday from 10:00 a.m. to 4:30 p.m.

If attempts to reach examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, Ph.D. can be reached on (571) 272-0928. The fax phone number for this Group is (703) 872-9306.

Malgorzata A. Walicka, Ph.D.

Patent Examiner

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Patricia L. Smith
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